



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

**DIGEST OF OTHER RECENT VIRGINIA DECISIONS.**

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

**CUNNINGHAM et al. v. JOHNSON.**

Sept. 7, 1914.

[82 S. E. 690.]

**1. Partition (§ 77\*)—Sale for Division—Proof to Authorize Sale.**—In partition, the court appointed four commissioners to divide the land among the parties, if they should determine that actual partition was practicable, which question was also referred to them. Two of such commissioners, with S. whose name was omitted from the decree appointing the commissioners as entered by the clerk through mistake, made a report that in their judgment the tract could not be partitioned in kind, but such two commissioners made affidavit that they had never been over the land but were on only one end of the tract, and signed the report on information derived from others. Held, that there was no evidence before the court upon which to base a decree for the sale of the land for division, as the report of the commissioners was discredited by the circumstances under which it was made.

[Ed. Note.—For other cases, see Partition, Cent. Dig. §§ 211-223; Dec. Dig. § 77.\* 10 Va.-W. Va. Enc. Dig. 790.]

**2. Partition (§ 77\*)—Partition or Sale—Conditions Precedent to Sale.**—A court has no authority to decree a sale of land for partition unless it is made to appear by an inquiry before a commissioner in chancery, or in some other way, the partition cannot be made.

[Ed. Note.—For other cases, see Partition, Cent. Dig. §§ 211-223; Dec. Dig. § 77.\* 10 Va.-W. Va. Enc. Dig. 790.]

Appeal from Circuit Court, Russell County.

Suit by T. J. Johnson against one Cunningham and others. From the decree, defendants appeal. Reversed and remanded.

*W. W. Bird*, of Lebanon, for appellants.

*Finney & Wilson*, of Lebanon, for appellee.

**STANLEY v. COMMONWEALTH.**

Sept. 7, 1914.

[82 S. E. 691.]

**Criminal Law (§ 42\*)—Immunity to Person Testifying.**—Election Law (Code 1904, § 145a) provides that no person shall expend, pay,

---

\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

promise, loan, or become pecuniarily liable for any money or other valuable thing in behalf of any candidate for office at any election, primary, or nominating convention, and clause 9, as amended by Acts 1908, c. 315, declares that no witness giving evidence in any prosecution or other proceeding under the act shall ever be proceeded against for any offense against the act or against the other election laws committed by him at or in connection with the same election. Held that, where accused testified in an election contest concerning himself and others to violations of section 145a, and the contest petition, though filed under the general election laws, charged offenses in the very terms of such section, he was entitled to immunity when prosecuted for such offenses.

[Ed. Note.—For other cases, see Criminal Law, Cent. Dig. §§ 45-48; Dec. Dig. § 42.\* 4 Va.-W. Va. Enc. Dig. 83.]

Error to Circuit Court, Dickenson County.

One Stanley was convicted of unlawfully receiving money to influence his vote, and he brings error. Reversed.

*Smith & Riddle*, of Clintwood, for plaintiff in error.

*Jno. Garland Pollard*, Atty. Gen., and *C. B. Garnett*, Asst. Atty. Gen., for the Commonwealth.

LITTON v. FLANARY et al.

Sept. 7, 1914.

[82 S. E. 692.]

**1. Judicial Sales (§ 41\*)—Resale—Advance Bid.**—A judicial sale should not be set aside solely because an advance bid of 10 per cent. has been made.

[Ed. Note.—For other cases, see Judicial Sales, Cent. Dig. § 79; Dec. Dig. § 41.\* 8 Va.-W. Va. Enc. Dig. 742, 773.]

**2. Judicial Sales (§ 41\*)—Resale—Inability to Attend Sale.**—It is no ground for setting aside a judicial sale, and ordering a resale, that one of two persons, who had consulted in regard to buying, and made an advance bid of 10 per cent., was unable to be present because his mother was ill and required his attendance.

[Ed. Note.—For other cases, see Judicial Sales, Cent. Dig. § 79; Dec. Dig. § 41.\* 8 Va.-W. Va. Enc. Dig. 728, 730.]

**3. Judicial Sales (§ 41\*)—Resale—Infants.**—Where otherwise there is no ground for setting aside a judicial sale of land for partition among heirs, and ordering a new sale, on an advance bid being made, the fact that some of the heirs are infants is not controlling.

[Ed. Note.—For other cases, see Judicial Sales, Cent. Dig. § 79; Dec. Dig. § 41.\* 8 Va.-W. Va. Enc. Dig. 735.]

---

\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.